

1 DENNIS L. KENNEDY
2 Nevada Bar No. 1462
3 SARAH E. HARMON
4 Nevada Bar No. 8106
5 KELLY B. STOUT
6 Nevada Bar No. 12105
7 AMANDA L. STEVENS
8 Nevada Bar No. 13966
9 **BAILEY♦KENNEDY**
10 8984 Spanish Ridge Avenue
11 Las Vegas, Nevada 89148-1302
12 Telephone: 702.562.8820
13 Facsimile: 702.562.8821
14 DKennedy@BaileyKennedy.com
15 SHarmon@BaileyKennedy.com
16 KStout@BaileyKennedy.com
17 AStevens@BaileyKennedy.com

18 *Attorneys for Plaintiff*
19 MICHELLE MCKENNA

20 UNITED STATES DISTRICT COURT
21 DISTRICT OF NEVADA

22 MICHELLE MCKENNA,

23 Plaintiff,

24 Case No. 2:14-cv-01773-JAD-CWH

25 vs.

26 DAVID Z. CHESNOFF, CHTD. P.C. d/b/a
27 CHESNOFF & SCHONFELD; DAVID Z.
28 CHESNOFF; and RICHARD A. SCHONFELD,

Defendants.

29 **MOTION FOR LEAVE TO FILE UNDER SEAL PLAINTIFF**
30 **MICHELLE MCKENNA'S OPPOSITION TO DEFENDANT**
31 **DAVID Z. CHESNOFF, CHTD. P.C. D/B/A CHESNOFF &**
32 **SCHONFELD'S MOTION TO COMPEL INDEPENDENT**
33 **MEDICAL EXAM OF PLAINTIFF MICHELLE MCKENNA**

34 Pursuant to Rule 5.2 of the Federal Rules of Civil Procedure and Local Rule 10-5, Plaintiff
35 Michelle McKenna moves this Court for an Order permitting her to file under seal Plaintiff Michelle
36 McKenna's Opposition to Defendant David Z. Chesnoff, Chtd. P.C. d/b/a Chesnoff & Schonfeld's
37 Motion to Compel Independent Medical Exam of Plaintiff Michelle McKenna [ECF No. 53]
38 ("Opposition"). Ms. McKenna makes this request because the Opposition and its accompanying
39 exhibits consist of evidence that is subject to a stipulated protective order entered by the Court.

BAILEY♦KENNEDY
8984 SPANISH RIDGE AVENUE
LAS VEGAS, NEVADA 89148-1302
702.562.8820

1 (ECF No. 18.) Pursuant to section III.D of the Protective Order, a party wishing to submit
2 confidential information to the Court must seek leave to file the information under seal. For these
3 reasons, Plaintiff requests leave of the court to file her Opposition and accompanying exhibits under
4 seal.

5 This motion is based on the following Memorandum of Points and Authorities and the
6 pleadings and papers on file in this case.

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8 DATED this 22nd day of August, 2016.

9 BAILEY♦KENNEDY

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By: /s/ Kelly B. Stout
DENNIS L. KENNEDY
SARAH E. HARMON
KELLY B. STOUT
AMANDA L. STEVENS

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Attorneys for Plaintiff
MICHELLE MCKENNA

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BAILEY♦KENNEDY
8984 SPANISH RIDGE AVENUE
LAS VEGAS, NEVADA 89148-1302
702.562.8820

MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to Federal Rule of Civil Procedure 5.2(d), “[t]he court may order that a filing be made under seal without redaction.” “[A]lthough the common law right creates a strong presumption in favor of access, the presumption can be overcome by sufficiently important countervailing interests.” *San Jose Mercury News, Inc. v. U.S. Dist. Ct.*, 187 F.3d 1096, 1102 (9th Cir. 1999). Thus, a party seeking to seal a judicial document must “articulate compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure.” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (citations omitted) (internal quotation marks omitted).

Here, the Court has granted the Parties' Stipulated Confidentiality Agreement and Proposed Protective Order [ECF No. 18] to protect the Parties' confidential, proprietary, financial, or otherwise sensitive or privileged information. The Opposition and its accompanying exhibits contain Ms. McKenna's medical records and/or health information and therefore are properly kept confidential. Accordingly, a compelling reason exists to seal the Opposition and its accompanying exhibits, and the public's interest in the access to judicial documents is outweighed by Ms. McKenna's privacy right in her confidential medical information.

Based on the foregoing, Ms. McKenna respectfully requests that this Court permit the Opposition and its accompanying exhibits to be filed under seal.

DATED this 22nd day of August, 2016.

BAILEY ♦ KENNEDY

By: /s/ Attorney Name
DENNIS L. KENNEDY
SARAH E. HARMON
KELLY B. STOUT
AMANDA L. STEVENS

Attorneys for Plaintiff
MICHELLE MCKENNA

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY♦KENNEDY and that on the 22nd day of August, 2016, service of the foregoing **MOTION FOR LEAVE TO FILE UNDER SEAL PLAINTIFF MICHELLE MCKENNA'S OPPOSITION TO DEFENDANT DAVID Z. CHESNOFF, CHTD. P.C. D/B/A CHESNOFF & SCHONFELD'S MOTION TO COMPEL INDEPENDENT MEDICAL EXAM OF PLAINTIFF MICHELLE MCKENNA** was made by mandatory electronic service through the United States District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

BRIAN K. TERRY
SEAN D. COONEY
**THORNDAL, ARMSTRONG, DELK,
BALKENBUSH & EISINGER**
1100 East Bridger Avenue
Las Vegas, Nevada 89101

Email: bkt@thorndal.com
sdc@thorndal.com

Attorneys for Defendants
DAVID Z. CHESNOFF, CHTD. P.C. d/b/a
CHESNOFF & SCHONFELD; DAVID Z.
CHESNOFF; and RICHARD A.
SCHONFELD

/s/ Josephine Baltazar
Employee of BAILEY ♦ KENNEDY